



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2900 FAX (603) 271-2456

February 14, 2002



CERTIFIED MAIL # 7099 3400 0003 0565 3284
RETURN RECEIPT REQUESTED

City Council
City of Berlin
168 Main Street
Berlin, NH 03570

Letter of Deficiency
WMD 02-04

SUBJECT: 2002 Local Government Financial Test for Berlin Municipal Solid Waste Unlined Landfills located at Cates Hill Road (Permit No. DES-SW-TP-94-005) and East Milan Road II (Letter Permit)

Dear Members of the Council:

The records of the Department of Environmental Services (Department) show that the Municipal Solid Waste Unlined Landfills (MSWLF's) owned/operated by the City of Berlin continued to receive waste after October 9, 1991 and did not complete capping of the facility by October 9, 1994. As such, the City must comply with federal solid waste regulations that implement RCRA Subtitle D, codified in 40 CFR Part 258 which include requirements for closed landfills and landfill closure. The federal regulations include financial assurance requirements designated as Subpart G of Part 258.70, which call for owners and operators of MSWLFs to demonstrate that adequate funds will be readily available for the costs of closure, post-closure care, and corrective action for known releases associated with their facilities.

The Department is responsible for the oversight of the RCRA-D program in New Hampshire. Additionally, MSWLF units are required to provide financial assurance pursuant to the New Hampshire Solid Waste Rules Part Env-Wm 3100 (Rules), a requirement that can be satisfied in the same fashion as called for by the federal regulations.

The Department sent a letter dated November 15, 2001, (copy attached) informing the City that its annual update for financial assurance was due no later than December 31, 2001. As of this date only a portion of the information required to determine your City's financial assurance compliance status has been received.

The above noted deficiency can be corrected by 1) contacting Myrna Giroux of the Solid Waste Management Bureau at 271-2925 within 10 days of receipt of this letter, and providing an update on the status of meeting the financial assurance requirements; and

2) within thirty (30) days from receipt of this letter, submitting all of the previously requested information. In the event that the City does not update its financial assurance, the Department may take further action against the City, including issuing an administrative order requiring the deficiency to be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil and/or criminal penalties.

Your prompt cooperation is appreciated. Should you have any questions regarding this matter, please do not hesitate to contact Myrna Giroux of the Solid Waste Management Bureau at 271-2925.

Sincerely,

A handwritten signature in black ink is written over the word "COPY" in large, bold, black capital letters. The signature appears to be "Richard S. Reed".

Richard S. Reed
Administrator
Solid Waste Management Bureau

enclosure: copy of letter dated November 15, 2001

cc: Gretchen Rule, Administrator, Legal Unit ✓
Myrna Giroux, SWMB
City File